United States Department of Labor
Employees' Compensation Appeals Board

G.J., Appellant	)	
and	)	**Docket No. 13-248**
	)	**Issued: May 29, 2013**
U.S. POSTAL SERVICE, POST OFFICE, Richmond, CA, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On November 23, 2012 appellant filed a timely appeal of the decision of the Office of Workers' Compensation Programs dated October 30, 2012 denying his claim for compensation. Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant established that he sustained an employment-related injury to his right wrist on December 10, 2010, as alleged.

FACTUAL HISTORY

On August 12, 2012 appellant, then a 65-year-old custodian/laborer, filed a traumatic injury claim alleging that on December 10, 2010, while moving a heavy file cabinet, he lost control and the file cabinet pulled him, causing an injury to his right wrist.

[1] 5 U.S.C. § 8101 *et seq.*

Appellant received treatment from physicians at Kaiser Permanente. In an August 24, 2012 Doctor's First Report of Occupational Injury or Illness, Dr. Tiffany Baer, a Board-certified internist, indicated that appellant injured his right wrist while moving furniture approximately two years ago. She diagnosed sprain or strain of the wrist. Dr. Baer stated that appellant treated himself with a brace which he wears almost every day. She stated that he thought the mild pain would improve on its own. Dr. Baer noted that appellant had not missed any work and that he was able to perform his usual work. She further indicated that appellant works a lot with his hands at the employing establishment, so there is a cumulative aspect to the pain. An x-ray was interpreted as showing no acute bony injury of the wrist. With regard to causation, Dr. Baer stated that the mechanism was consistent with her clinical examination findings and no information had been presented that would indicate a cause other than the alleged employment event/exposure.

In a progress form report dated August 31, 2012, Dr. Charles LaRoche, a physician Board-certified in occupational medicine, diagnosed appellant with sprain or strain of the wrist. He initially listed that date of injury as December 14, 2010, but later in the report noted that there was apparently a remote injury in November 2011. Dr. LaRoche noted that, since that time, appellant complained of ongoing right wrist pain with gripping possibly exacerbated by the more repetitive aspects of his work. He noted no evidence of acute fracture or dislocation. Dr. LaRoche indicated that appellant could return to full-duty work on that date. In a September 21, 2012 report, he noted that appellant had no pain at present, but occasional pain with forceful gripping, primarily at the ulnar wrist. Dr. LaRoche noted full range of motion. In an October 12, 2012 report, he noted that appellant had completed a four-week physical therapy course. Dr. LaRoche noted that appellant denied any current pain, although he did report occasional mild discomfort over the back and sides of the wrist with certain activities, but overall felt he was back to preinjury status.

By decision dated October 30, 2012, OWCP denied appellant's claim. It determined that, although appellant established that he was a federal civilian employee who moved a file cabinet on December 10, 2010, and had established that he sustained a right wrist strain, now resolved, he had failed to establish causal relationship between the accepted December 10, 2010 incident and the right wrist injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.[2]

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been

[2] *Jussara L. Arcanjo*, 55 ECAB 281, 283 (2004).

established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident or exposure, which is alleged to have occurred.[3] In order to meet his or her burden of proof to establish the fact that he or she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that he or she actually experienced the employment injury or exposure at the time, place and in the manner alleged.[4]

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.[5] The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[6]

ANALYSIS

OWCP accepted that appellant established that on December 11, 2011 he experienced an employment incident when he was moving a heavy file cabinet. It further found that he suffered a right wrist strain that had since resolved. However, OWCP denied appellant's claim as he failed to establish a causal relationship between the accepted employment incident and the right wrist strain.

The Board finds that appellant has failed to provide sufficient medical evidence to establish that he suffered an injury causally related to the accepted December 10, 2010 employment incident. As noted above, medical evidence is needed to establish causal relationship.[7] Drs. Baer and LaRoche both examined appellant more than 18 months after the December 10, 2010 employment incident. Neither physician gave a definite statement linking appellant's wrist injury to the remote employment injury. Dr. Baer stated that there was no other cause listed other than the alleged employment incident, although she did note that there may be a cumulative aspect to the injury. Dr. LaRoche noted that, since the time of the employment incident, appellant has had occasional pain. Neither physician offered supporting medical rationale linking the work incident of December 10, 2010 to the right wrist injury that Dr. Baer first noted on August 24, 2012. The Board finds that medical conclusions unsupported by

[3] *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

[4] *Linda S. Jackson*, 49 ECAB 486 (1998).

[5] *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

[6] *Judith A. Peot*, 46 ECAB 1036 (1995); *Ruby I. Fish*, 46 ECAB 276 (1994).

[7] *J.R.*, Docket No. 12-1704 (issued February 12, 2013).

medical rationale are of diminished probative value and are insufficient to establish causal relation.[8]

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition worsened during a period of employment nor his belief that his condition was caused by his employment is sufficient to establish causal relationship.[9]

Appellant submitted new evidence on appeal. The Board lacks jurisdiction to review evidence for the first time on appeal.[10] Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established that he sustained an employment-related injury to his right wrist on December 10, 2011, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 30, 2012 is affirmed.

Issued: May 29, 2013
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

[8] *Albert C. Brown*, 52 ECAB 152 (2000).

[9] *M.J.*, Docket No. 12-534 (issued July 26, 2012).

[10] 20 C.F.R. § 501.2(c).